IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.469/01

Roop Narain **Versus** State & Ors.

DATE OF ORDER :: 03/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Dinesh Dixit for Mr. A.K. Bajpai, for petitioner
Mr. Arun Sharma, P.P.

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Instant petition has been filed by complainant-petitioner assailing the order dated 22nd January, 2001 whereby the order of learned trial Judge of framing charges against accused-respondents, was rejected by Revisional Authority on accepting the revision petition filed u/s.397 Cr.P.C.

Facts, as appear from the order impugned, are that Shri Nathu, Laxman & Bhagirath, sold their disputed land by registered sale deed to one Chhotu S/o Shri Kesra, on 17th December, 1993. So far as thump impression on the registered sale deed is concerned, it was sent to FSL, which submitted their positive report about thump impressions of sellers i.e. Nathu, Laxman & Bhagirath. Petitioner filed a complaint that the disputed land, which has been sold to the accused-respondents without paying consideration to the sellers and their thump impressions over the sale deed are also forged and were obtained under intoxication. As such, a criminal offence was registered against them u/ss.420, 423 & 120B

IPC. Learned trial Judge initially framed charges against accused-respondents, but learned Revisional Authority allowed their revision petition and set aside the charges framed against them under order impugned dated 22nd January, 2001.

Counsel for petitioner submits that there was sufficient material on record to justify that the registered sale deed, which was executed, was forged document and thump impressions of the sellers were obtained not in normal state of affairs, but under intoxication. As such, after recording statements of complainant and also of others, learned trial Judge framed charges against them and the learned Revisional Authority has committed a serious error in appreciating the evidence by accepting their revision under order impugned.

Counsel further submits that so far as civil suit filed by petitioner-complainant is concerned, their injunction application has been dismissed, but the suit stood abated on 25th August, 1995 - against which he has preferred appeal is pending consideration. As such, the inference, which has been drawn by learned Revisional Court of suit being abated in the absence of its complete gist, has caused prejudice to him. Since no opportunity was available for complainant to address at the revisional stage, that has caused prejudice to him in recording finding against him.

I have considered the submission of both the counsel and perused the finding recorded under order impugned.

The relevant fact is that filing of suit by the complainant-petitioner for specific performance of alleged agreement executed in his favour dated 23rd June, 1979 and even if the appeal is pending against the order of abatment dated 25th August, 2000, this fact cannot be ruled out that remedy by filing civil suit with respect to execution of agreement has been availed by petitioner and in regard to registered sale deed which has been questioned by the complainant on filing a criminal complaint, he is totally a stranger to it. So far as criminal proceedings are concerned, neither sellers nor purchaser have come forward in regard to transaction undertaken between them. Apart from it, on the compliant filed by petitioner the document was sent to the FSL and thump impression was found to be genuine of the sellers itself.

This court is of the opinion that learned Revisional Authority has not committed any error and the finding recorded under order impugned does not call for interference.

Consequently, the misc. petition stands dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.